

Thurgood Marshall, Jr.'s Controversial Position on Board of Private Prison Firm

by Steve Horn

He's the descendant of a slave and the son of U.S. Supreme Court Justice Thurgood Marshall, who was the lead attorney in the landmark 1954 case *Brown v. Board of Education*, which desegregated U.S. public schools. An attorney who served as White House Cabinet Secretary during President Clinton's administration, Thurgood Marshall, Jr. also sits on the board of directors of CoreCivic, the nation's largest for-profit prison company.

Marshall, Jr. has held a board position with CoreCivic – formerly Corrections Corporation of America – since 2002, though that has seldom been mentioned in the mainstream media. One criminal justice-focused news outlet, The Marshall Project – named after Thurgood Marshall – has only once reported on Marshall, Jr.'s affiliation with CoreCivic, burying it at the very bottom of an article titled "What You Need to Know About the Private Prison Phase-Out."

In 2018 The Marshall Project received a \$500,000 grant from the Ford Foundation, a multi-million dollar philanthropic organization that acts as a major funder of criminal justice reform in the United States. As it turns out, that same year Marshall, Jr. was finishing up his second of two six-year terms on the Ford Foundation's Board of Trustees.

The Ford Foundation did not respond directly to questions posed by *Prison Legal News* about how the organization reconciled having someone on its board who is affiliated with a for-profit prison company, while it funds criminal justice reform efforts.

"Ford Foundation trustees bring a vast range of knowledge and experience to the task of governing the foundation. Over the years, trustees have hailed from five continents, and they bring extensive expertise from a variety of worlds including higher education, business, and the arts," Joshua Cinelli, Chief of Media Relations and Manager of Strategic Communications for the organization, told *PLN* in an emailed statement. "Thurgood Marshall, Jr. was elected to the board by the trustees in 2006 and began his service in January 2007. He has brought a wealth of knowledge as a lawyer and as a civil servant with broad experience in the executive and legislative branches of government, and has served as a trustee with distinction."

The Ford Foundation describes its approach to funding criminal justice reform like many other critics of mass incarceration in the U.S. – a system from which CoreCivic directly benefits. The company made \$178 million in net profit in 2017.

"The United States incarcerates more of its citizens than any other country in the world – mainly minorities and poor people," the Ford Foundation states on its website. "Our grants support public education and advocacy for sentencing reforms aimed at reducing prison populations, and redirecting funds into crime prevention and other initiatives that foster the success of people in neighborhoods hardest hit by crime and incarceration."

PLN managing editor Alex Friedmann criticized the Ford Foundation's response to questions regarding Marshall, Jr.'s position on CoreCivic's board of directors.

"There are no surprises there," he said. "They don't have a good answer, so provided no answer."

In addition to serving in the White House under President Clinton, Marshall, Jr. also worked as Director of Legislative Affairs and Deputy Counsel to Vice President Al Gore. According to his bio on CoreCivic's website, he presently "serves on the American Bar Association Election Law Committee and serves as a board member of the National Fish & Wildlife Foundation, the National Women's Law Center and the Supreme Court Historical

Society, and serves on the Ethics Oversight Committee of the United States Olympic Committee.”

Campaign Cash, Board Money

The digital publication *Sludge* published an article about Marshall, Jr. in August 2018, noting that beyond being a board member for CoreCivic, he also has contributed a significant amount of money to the company’s Political Action Committee (PAC). PACs donate money to candidates for elected office, usually at the federal level but sometimes at the state level as well.

“Since 2004, Marshall, Jr. has donated \$62,500 to CoreCivic’s political action committee, which has spent 90 percent of its campaign contributions this cycle to elect Republican legislators,” the *Sludge* article stated.

Further, Marshall, Jr. received \$234,005 in compensation from CoreCivic in 2017 alone, according to the company’s filings with the Securities and Exchange Commission (SEC). Between 2006 and 2017, Marshall, Jr. received at least \$2,221,944 in board compensation and stock options from the company.

And according to CoreCivic’s SEC Form 4 filings reviewed by *PLN*, Marshall, Jr. has cashed out his stock in the firm four times, for a total of \$274,586.

Friedmann put CoreCivic’s business model into context in the *Sludge* article.

“What the company does, from a broad perspective, is profit from the criminal justice system,” commented Friedmann, who also serves as associate director of the Human Rights Defense Center, the parent organization of *PLN*. “Since they rebranded themselves as a real estate investment trust back in 2013, they’ve marketed themselves as a real estate company, but their real estate primarily consists of correctional facilities.”

When questioned about his involvement with a for-profit prison company, Marshall, Jr. justified his CoreCivic board position by saying he hoped to improve the company from within. However, when Friedmann asked him about that rationale several years later, he said Marshall, Jr. provided no specific examples of any improvements he had achieved with respect to CoreCivic’s private prison operations.

“Of course, it’s nice of him to get a large stipend for doing that and thousands of shares of stock” in the meantime, Friedmann told *Sludge*. He also noted that when he introduced a shareholder resolution with CoreCivic in 2012 to require the company to report on what it was doing to reduce prisoner rape and sexual abuse, and to disclose the number of such incidents in its facilities, the company’s board, including Marshall, Jr., voted to oppose the resolution. [See: *PLN*, June 2012, p.32; March 2012, p.18].

For its part, when Marshall, Jr. was being renominated for his board position, CoreCivic stated in a March 29, 2018 notice to shareholders: “In making the decision to nominate Mr. Marshall to serve as a director, our Nominating and Governance Committee considered ... his understanding of politics and the public sector through his varied government service and consulting work; his understanding of organizational governance and oversight through his service as a director in the public, non-profit and for-profit sectors; his understanding of legal, regulatory and compliance issues through his education and experience as a lawyer; and his contribution to the Board’s cultural diversity.”

Marshall, Jr. is the only African-American member of the company’s board of directors.

In response to an inquiry from *PLN*, Stephen Owen, CoreCivic’s managing director of communications, stated in part, “As a board member, Thurgood Marshall, Jr. has played a critical

role in helping our company have an even greater understanding of the difference we can make in society.”

Marshall, Jr. is joined on CoreCivic’s board of directors by the likes of Harley G. Lappin III, former director of the federal Bureau of Prisons, who retired from the BOP after being charged with DUI in 2011, and Stacia Hylton, former director of the U.S. Marshals Service, who, prior to being appointed to that position, had provided private prison consulting services.

Beyond his position on CoreCivic’s board, Marshall, Jr. works as a partner at the law firm of Morgan Lewis. Among that firm’s clients is Securus Technologies, one of the nation’s largest prison and jail telecom companies, which has faced criticism for price-gouging prisoners and their families by charging inflated phone rates and fees.

Like Father, Like Son?

Although his father enjoys a sterling reputation as a renowned civil rights attorney and Supreme Court Justice, the late Thurgood Marshall had his own involvement with supporting the criminal justice system when he worked for the NAACP. As an October 2017 article published by The History Channel pointed out, he collaborated with the Federal Bureau of Investigation as an informant during the Red Scare in the 1950s, contacting the agency about suspected Communist Party members and meeting with then-FBI director J. Edgar Hoover.

“The matter which is worrying him more than anything else right at the moment is the Communist Party’s effort to get into the NAACP and forge out to the forefront,” reads a 1952 memo by Louis B. Nichols, assistant to J. Edgar Hoover, the Associated Press reported in 1996.

“Marshall and other civil rights leaders knew that being associated with Communists at the height of the Red Scare would diminish the organization’s credibility and damage its reputation. The FBI, Marshall thought, might help shield the NAACP in exchange for information about Communists (and, perhaps, focus on other organizations instead). And so he began feeding select information to the bureau,” The History Channel stated.

Beyond serving as an informant, Marshall also asked the FBI to look into potential protests against him on college campuses.

“A 1968 memo tells of Marshall calling an FBI agent to report that he was the target of a Black Panther demonstration at the University of Wisconsin and asking whether the agency knew whether similar action was planned when he attended a University of Georgia event,” the Associated Press wrote.

Marshall, Jr. called his father’s connection with the FBI “an ironic twist.”

The apple, as the old adage goes, apparently does not fall far from the tree in the Marshall lineage with respect to colluding with the powers of oppression – the FBI in regard to Thurgood Marshall, and the nation’s largest private prison company for his son.

The main difference is that there is no evidence Thurgood Marshall profited from his involvement with the criminal justice system, while there is substantial proof that Marshall, Jr. has benefitted financially from his relationship with CoreCivic – a company that incarcerates people, mainly the poor and minorities, for the purpose of generating corporate profit.

Sources: www.nashvillepost.com, www.morganlewis.com, www.sec.gov, www.readsludge.com, www.corecivic.com, www.themarshallproject.org, www.latimes.com, www.history.com, www.prisonpolicy.org, www.sec.gov, www.web.archive.org, www.fordfoundation.org, www.law.com